

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant Requesting Reissue: Lonnie G. Johnson

Patent No. 6,540,108

Granted: April 1, 2003

Titled: TOY WATER GUN

REISSUE APPLICATION DECLARATION BY INVENTOR

I, Lonnie G. Johnson, of 201 The Prado, Atlanta, GA 30309, declare that I am a citizen of the United States, that the entire title to letters patent number 6,540,108 for TOY WATER GUN, granted on April 1, 2003 to me is vested in Johnson Research & Development Company, Inc., the consent of which is given, that I verily believe I am the original and sole inventor of the invention described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent; that I do not know and do not believe that said invention was ever known or used in the United States of America before the invention thereof by me; that such patent is inoperative by reason of claiming less than I was entitled to claim. Specifically, I verily believe I was the first to invent and was entitled to claim the broad concept of a water gun having a housing; a storage reservoir adapted to hold liquid; an expandable pressure tank adapted to hold liquid and to expand under induced tension upon introducing liquid in excess of a selected volume therein and thereby exert a force upon the liquid; a pump for drawing liquid from the storage reservoir and depositing the drawn liquid into the expandable pressure tank; conduit means for conveying liquid from the expandable pressure tank to ambience; and trigger functionally coupled to the conduit means, whereby the actuation of the trigger causes water to be expelled through the conduit means, as set forth in new claims 19-42. The claims of said letters patent excessively limited the water gun

to that having control means for controlling the flow of liquid through the conduit means. With the advent of recent court cases regarding means plus function language within claims, it has come to my attention that the term control means may be considered to be narrowly construed in finding literal infringement to those which are actually shown in the patent. However, the water gun may be operational with any type of conventionally known liquid flow controller, or in other words, any trigger or triggering mechanism. As such, I am hereby requesting that the patent be reissued so that the limitation of control means may be changed to a broad definition of any type of trigger. This error occurred because at the time the patent claims were drafted I was not aware that the Court would take such a narrow view of means plus function language. The initial patent application was prepared with the understanding that the term control means could include any and all types of control means in defining the scope of the patent. It is my understanding that in assessing literal infringement, Courts now find that means plus function language may include only that which is shown in the patent. Upon reviewing the newly issued patent at issue it was discovered that all claims included the means plus function language of a "control means" with regarding the trigger mechanism for controlling the flow of water. To correct this defect I requested my patent attorney to reissue the patent utilizing the broader term of a trigger or controller instead of the term control means.

New claim 19 corrects the error by reciting a water gun comprising a housing; a storage reservoir adapted to hold liquid; an expandable pressure tank adapted to hold liquid and to expand under induced tension upon introducing liquid in excess of a selected volume therein and thereby exert a force upon the liquid; a pump for drawing liquid from the storage reservoir and depositing the drawn liquid into the expandable pressure tank; conduit means for conveying liquid from said expandable pressure tank to ambience; and a trigger functionally coupled to the conduit means,

whereby the actuation of the trigger causes water to be expelled through the conduit means.

Claims 20 - 24 all depend from new claim 19 and therefore similarly eliminate the unnecessary limitation found in corresponding claims 2-6.

New Claim 25 corrects the error by reciting a water gun comprising a liquid storage reservoir; an elastic pressure tank adapted to be expanded and contracted upon changes in the volume of liquid pumped therein; a liquid pump; first conduit means for conveying liquid contained within the storage reservoir to the pump; second conduit means for conveying liquid from the pump to the elastic pressure tank; third conduit means for conveying liquid from the elastic pressure tank to ambience; and a trigger coupled to one of the conduit means, whereby liquid within the storage reservoir is pumped into the elastic pressure tank through the first and second conduits thereby forcing the elastic pressure tank to its second configuration so as to pressurize liquid therein which is controllably released from the elastic pressure tank through the third conduit means by actuation of the trigger.

Claims 26 - 30 all depend from new claim 25 and therefore similarly eliminate the unnecessary limitation found in corresponding claims 8-12.

New Claim 31 corrects the error by reciting a water gun comprising a housing, a storage reservoir; elastic pressure tank for exerting pressure on a body of liquid therein of a magnitude relative to the volume of the body of liquid; a pump which draws liquid from the storage reservoir and depositing the drawn liquid into the elastic pressure tank; a conduit which conveys liquid from the elastic pressure tank to ambience; and a trigger, whereby the trigger controls the flow of liquid through the conduit.

Claims 32 - 36 all depend from new claim 31 and therefore similarly eliminate the unnecessary limitation found in corresponding claims 14-18.

New Claim 37 corrects the error by reciting a water gun comprising a housing, a storage reservoir; elastic pressure tank for exerting pressure on a body of liquid therein of a magnitude relative to the volume of the body of liquid; a pump which draws liquid from said storage reservoir and depositing the drawn liquid into said elastic pressure tank; a conduit which conveys liquid from said elastic pressure tank to ambience; and a controller functionally coupled to the conduit, whereby the controller controls the flow of liquid through the conduit.

Claims 38 - 42 all depend from new claim 37 and therefore similarly eliminate the unnecessary limitation found in corresponding claims 14-18.

Such error arose without any deceptive intent on my part and upon a failure to fully convey to my patent attorney common alternative designs for the control means. The error was discovered a few weeks prior to filing this reissue application upon a review of the newly issued patent and for assessment of the scope of the patent and possible infringement thereof.

I hereby state that I have reviewed and understand the contents of this Application for Reissue, including the new claims requested to be added.

I acknowledge the duty to disclose information which is material to the examination of this Application for Reissue in accordance with Title 37, Code of Federal Regulations, Section 1.56 et seq.

I hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, said counsels having full power of substitution and revocation:

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements, and the like, so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereof.

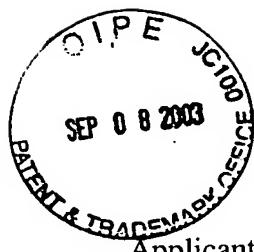
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REISSUE APPLICATION BY THE INVENTOR, OFFER TO SURRENDER

The undersigned make application for the reissue of Patent No. 6,540,108 for the improvement in TOY WATER GUN, granted to him on April 1, 2003, of which he is an inventor and offers to surrender said patent upon allowance of this application.

Johnson Research & Development Company, Inc., the assignee of all rights in said patent, hereby consents to the reissuance of said patent and this offer to surrender.

The drawings upon which the original application was issued are intended to be used in the reissue application with no changes to be made. The reissue application is directed solely to adding new claims 19-42 as separately set forth and for the reasons separately set forth herewith.

Filed separately herewith is an Order For A Title Report as required in such application.

The required filing fee accompanies this application.

Aug 18, 2003  
Date

Lonnie G. Johnson  
Lonnie G. Johnson

Aug 18, 2003  
Date

Lonnie G. Johnson  
Lonnie G. Johnson  
Pres. Of Johnson Research & Development  
Company, Inc.  
(Assignee)